

ASSEMBLY BILL

No. 122

Introduced by Assembly Member Brown
(Principal coauthor: Senator Thompson)

January 14, 1997

An act to amend Sections 53, 17250, and 24349 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 122, as introduced, Brown. Tax relief: vineyards: Pierce's Disease.

The California Constitution specifies that grapevines are exempt from property taxation until 3 years after the season in which they were planted in vineyard form. Existing statutory provisions authorize a county board of supervisors to provide by ordinance that, thereafter, the property tax base year value of substantially equivalent grapevines that are planted to replace certain grapevines that were removed solely as a result of a phylloxera infestation, shall be the property tax base year value of the removed grapevines factored to the lien date of the first taxable year of the replacement grapevines.

This bill would expand this authorization to apply with respect to substantially equivalent grapevines that are planted to replace grapevines removed solely as a result of Pierce's Disease.

The existing Personal Income Tax Law and Bank and Corporation Tax Law each specify a 5-year period for

purposes of accelerated cost recovery or depreciation provisions, and a 10-year period or class life for purposes of alternative depreciation, with respect to grapevines replaced in a vineyard in California in a taxable or income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard.

This bill would expand these provisions to also apply to any grapevine replaced in a vineyard in a taxable or income year beginning on or after January 1, 1997, as a direct result of Pierce's Disease in that vineyard.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53 of the Revenue and Taxation
2 Code is amended to read:
3 53. (a) Except as provided in subdivision (b), the
4 initial base year value for fruit and nut trees and
5 grapevines subject to exemption pursuant to subdivision
6 (i) of Section 3 of Article XIII of the California
7 Constitution shall be the full cash value of those
8 properties as of the lien date of their first taxable year.
9 (b) A county board of supervisors may, after
10 consulting with affected local agencies within the
11 county's boundaries, provide by ordinance that the initial
12 base year value for replacement grapevines that are
13 planted to replace grapevines less than 15 years of age
14 that were removed solely as a result of phylloxera
15 infestation or *Pierce's Disease*, as certified in writing by
16 the county agricultural commissioner, shall be the base
17 year value of the removed vines factored to the lien date
18 of the first taxable year of the replacement vines. The
19 assignment of base year replacement value is limited to
20 replacement grapevines that are substantially equivalent
21 to the vines that were replaced, and are planted on the
22 same parcel as the replaced vines. For purposes of this
23 subdivision, replacement vines are substantially
24 equivalent to the vines they replace if the replacement

1 vines are of a similar type and are planted at a similar
2 density.

3 SEC. 2. Section 17250 of the Revenue and Taxation
4 Code is amended to read:

5 17250. (a) (1) Section 168 of the Internal Revenue
6 Code, relating to the accelerated cost recovery system,
7 shall apply to assets placed in service on or after January
8 1, 1987, in taxable years beginning on or after January 1,
9 1987.

10 (2) In the case of assets placed in service on or after
11 January 1, 1987, in taxable years beginning prior to
12 January 1, 1987, a taxpayer may elect to have Sections 168
13 and 179 of the Internal Revenue Code apply by doing all
14 of the following:

15 (A) Making an election on the return for the first
16 taxable year beginning on or after January 1, 1987.

17 (B) Establishing a depreciation adjustment account
18 for each asset (or group of assets) in an amount equal to
19 the difference between the depreciation allowed on the
20 federal return for each asset (or group of assets) and the
21 depreciation allowed under this part.

22 (C) The depreciation adjustment account (or
23 accounts) established under subparagraph (B) shall be
24 amortized over 60 months beginning with the first
25 taxable year beginning on or after January 1, 1987.

26 (3) In the case of assets placed in service prior to
27 January 1, 1987, in taxable years beginning prior to
28 January 1, 1987, Section 168 of the Internal Revenue Code
29 shall apply only to residential rental property as provided
30 by former Section 17250.5 (as amended by Chapter 1461
31 of the Statutes of 1985).

32 (b) For purposes of subdivision (a), any reference to
33 “tax imposed by this chapter” in Section 168 of the
34 Internal Revenue Code means “net tax,” as defined in
35 Section 17039.

36 (c) For purposes of paragraph (1) of subdivision (a),
37 Section 168 of the Internal Revenue Code shall be
38 modified as follows:

39 (1) Section 168(e)(3) shall be modified to provide that
40 any grapevine, replaced in a vineyard in California in any

1 taxable year beginning on or after January 1, 1992, as a
2 direct result of a phylloxera infestation in that vineyard,
3 *or replaced in a vineyard in California in any taxable year*
4 *beginning on or after January 1, 1997, as a direct result of*
5 *Pierce's Disease in that vineyard*, shall be "five-year
6 property," rather than "10-year property."

7 (2) Section 168(g)(3) of the Internal Revenue Code
8 shall be modified to provide that any grapevine, replaced
9 in a vineyard in California in any taxable year beginning
10 on or after January 1, 1992, as a direct result of a phylloxera
11 infestation in that vineyard, *or replaced in a vineyard in*
12 *California in any taxable year beginning on or after*
13 *January 1, 1997, as a direct result of Pierce's Disease in that*
14 *vineyard*, shall have a class life of 10 years.

15 (d) Every taxpayer claiming a depreciation deduction
16 with respect to grapevines as described in subdivision (c)
17 shall obtain a written certification from an independent
18 state-certified integrated pest management advisor, or a
19 state agricultural commissioner or advisor, that specifies
20 that the replanting was necessary to restore a vineyard
21 infested with phylloxera *or Pierce's Disease*. The taxpayer
22 shall retain the certification for future audit purposes.

23 (e) (1) Section 169 of the Internal Revenue Code,
24 relating to amortization of pollution control facilities,
25 shall apply, except as otherwise provided.

26 (2) The deduction allowed by this section shall be
27 available only with respect to facilities located in this
28 state.

29 (3) The "state certifying authority," as defined in
30 Section 169(d)(2) of the Internal Revenue Code, means
31 the State Air Resources Board, in the case of air pollution,
32 and the State Water Resources Control Board, in the case
33 of water pollution.

34 (f) For property used in a trade or business, or held for
35 production of income, there shall be allowed as a
36 depreciation deduction a reasonable allowance for the
37 cost of a solar energy system and allowable conservation
38 measures over a 60-month period for taxable years
39 beginning before January 1, 1987.

(g) Section 7622(c)[e] of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(h) Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

(i) The amendments to Section 168(c)(1) of the Internal Revenue Code made by Section 13151 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to increase in recovery period for nonresidential real property, shall apply to property placed in service on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

SEC. 3. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for income years ending after December 31, 1958, the term “reasonable allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight-line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer’s use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been

1 used had those allowances been computed under the
2 method described in paragraph (2).

3 Nothing in this subdivision shall be construed to limit
4 or reduce an allowance otherwise allowable under
5 subdivision (a).

6 (c) Any grapevine replaced in a vineyard in California
7 in an income year beginning on or after January 1, 1992,
8 as a direct result of a phylloxera infestation in that
9 vineyard, *and any grapevine replaced in a vineyard in*
10 *California in an income year beginning on or after*
11 *January 1, 1997, as a direct result of Pierce's Disease in that*
12 *vineyard*, shall have a useful life of five years, except that
13 it shall have a class life of 10 years for purposes of
14 depreciation under Section 168(g)(2) of the Internal
15 Revenue Code where the taxpayer has made an election
16 under Section 263A(d)(3) of the Internal Revenue Code
17 not to capitalize costs of the infested vineyard. Every
18 taxpayer claiming a deduction under this section with
19 respect to a grapevine as described in this subdivision
20 shall obtain a written certification from an independent
21 state-certified integrated pest management advisor, or a
22 state agricultural commissioner or advisor, that specifies
23 that the replanting was necessary to restore a vineyard
24 infested with phylloxera *or Pierce's Disease*. The taxpayer
25 shall retain the certification for future audit purposes.

26 (d) For purposes of this part, the deduction for
27 property leased to governments and other tax-exempt
28 entities, as defined in Section 168(h) of the Internal
29 Revenue Code, shall be limited to the amount
30 determined under Section 168(g) of the Internal
31 Revenue Code, relating to alternative depreciation
32 system for certain property.

33 SEC. 4. This act provides for a tax levy within the
34 meaning of Article IV of the Constitution and shall go into
35 immediate effect.

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